

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0135-LII-E TCEQ ID: RN104946199 CASE NO.: 35276
RESPONDENT NAME: GREGORY W. BOYD

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 6717 Harry Road, San Antonio, Bexar County, and 10522 Felsbock Lane, New Braunfels, Comal County</p> <p>TYPE OF OPERATION: Landscape irrigation installation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this person.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired April 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Water Enforcement Section, MC 128, (512) 239-5690 TCEQ Regional Contact: Mr. Tom Haberle, Regional Office, MC R-13, (210) 403-4050 Respondent: Mr. Gregory W. Boyd, 6717 Harry Road, San Antonio, Texas, 78223 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 19, 2007</p> <p>Date of NOE Relating to this Case: December 21, 2007</p> <p>Background Facts: The EDPRP was filed June 26, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The envelope sent by certified mail was returned "unclaimed;" the first-class mail has not been returned. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent is not yet in compliance.</p> <p>LII:</p> <p>1. Failed to include the required statement on all written contracts and bills to install irrigation systems [30 TEX. ADMIN. CODE § 334.94(b)].</p> <p>2. Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part [30 TEX. ADMIN. CODE § 344.95(a)].</p>	<p>Total Assessed: \$207</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$207</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately, ensure that the design of all irrigation systems Respondent designs or installs meet the manufacturer's performance limitations.</p> <p>2. Within 10 days, ensure that the statement "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," is included on all written bills and contracts Respondent provides to his customers.</p> <p>3. Within 15 days, submit written, certification to demonstrate compliance with these Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	2-Jan-2008	Screening	16-Jan-2008	EPA Due	
	PCW	2-May-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Gregory W. Boyd
Reg. Ent. Ref. No.	RN104946199
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35276	No. of Violations	2
Docket No.	2008-0135-LII-E	Order Type	1660
Media Program(s)	Irrigators	Enf. Coordinator	Shontay Wilcher
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$150**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5% Enhancement** **Subtotals 2, 3, & 7** **\$7**

Notes Enhancement for one Notice of Violation with same or similar violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

Before NOV NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts **\$69** **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$150** ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$157**

OTHER FACTORS AS JUSTICE MAY REQUIRE **32%** **Adjustment** **\$50**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended adjustment to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount **\$207**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$207**

DEFERRAL **0%** **Reduction** **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$207**

Screening Date 16-Jan-2008

Docket No. 2008-0135-LII-E

PCW

Respondent Gregory W. Boyd

Policy Revision 2 (September 2002)

Case ID No. 35276

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104946199

Media [Statute] Irrigators

Enf. Coordinator Shontay Wilcher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one Notice of Violation with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 16-Jan-2008		Docket No. 2008-0135-LII-E		PCW		
Respondent Gregory W. Boyd		<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 35276		<i>PCW Revision November 6, 2007</i>				
Reg. Ent. Reference No. RN104946199						
Media [Statute] Irrigators						
Enf. Coordinator Shontay Wilcher						
Violation Number	<input type="text" value="1"/>					
Rule Cite(s)	<div style="border: 1px solid black; padding: 5px; text-align: center;">30 Tex. Admin. Code § 344.94(b)</div>					
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to include the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," on all written contracts and bills to install irrigation systems. Specifically, the Respondent did not include the required statement on the written contract and bills for 10522 Felsbock Lane, New Braunfels, Comal County, Texas.</div>					
Base Penalty					<input type="text" value="\$2,500"/>	
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="0%"/>
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor		
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	Percent	<input type="text" value="1%"/>
Matrix Notes	<div style="border: 1px solid black; padding: 5px; text-align: center;">Less than 33% of the rule requirement was not met.</div>					
Adjustment					<input type="text" value="\$2,475"/>	
					<input type="text" value="\$25"/>	
Violation Events						
Number of Violation Events		<input type="text" value="1"/>		<input type="text" value="458"/> Number of violation days		
<i>mark only one with an x</i>	daily	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	x				
Violation Base Penalty					<input type="text" value="\$25"/>	
<div style="border: 1px solid black; padding: 5px; text-align: center;">One single event is recommended based on documentation of the violation during the December 19, 2007 record review date.</div>						
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$66"/>		Violation Final Penalty Total		
				<input type="text" value="\$35"/>		
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$35"/>	

Economic Benefit Worksheet

Respondent Gregory W. Boyd

Case ID No. 35276

Reg. Ent. Reference No. RN104946199

Media Irrigators

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$50	18-Sep-2006	19-Dec-2007	1.3	\$3	\$63	\$66
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to include the required statement on all written contracts and bills. The Date Required is the date of the first contract without the required statement and the Final Date is the record review date.

Approx. Cost of Compliance \$50

TOTAL \$66

Screening Date 16-Jan-2008

Docket No. 2008-0135-LII-E

PCW

Respondent Gregory W. Boyd

Policy Revision 2 (September 2002)

Case ID No. 35276

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104946199

Media [Statute] Irrigators

Enf. Coordinator Shontay Wilcher

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 344.95(a)

Violation Description

Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part, unless the use is necessary to accommodate special site conditions. Specifically, the Respondent installed an irrigation system at 10522 Felsbock Lane, New Braunfels, Comal County, Texas where the system exceeded the manufacturer's performance limitations. The sprays within one inch of the PVC pipe at Stations 1 through 11, sprayed between 22 gallons per minute (gpm) to 36 gpm which exceeded the manufacturer's recommended limit of 17 gpm.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$2,375

\$125

Violation Events

Number of Violation Events 1

458 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$125

One single event is recommended based on documentation of the violation during the December 19, 2007 record review date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$173

This violation Final Assessed Penalty (adjusted for limits) \$173

Economic Benefit Worksheet

Respondent Gregory W. Boyd
Case ID No. 35276
Reg. Ent. Reference No. RN104946199
Media Irrigators
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	19-Dec-2007	19-Aug-2008	0.7	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to properly design an irrigation system. The date required is the record review date. The final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Compliance History

Customer/Respondent/Owner-Operator:	CN603027376 BOYD, GREGORY W	Classification:	Rating:
Regulated Entity:	RN104946199 BOYD, GREGORY W	Classification:	Site Rating:
ID Number(s):	LANDSCAPE IRRIGATION LICENSING LICENSE		L10014680
Location:	6717 HARRY RD. SAN ANTONIO, TEXAS 78223		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	January 27, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 27, 2003 to January 27, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Shontay Wilcher	Phone:	(512) 239-2136

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/25/2007 (595886)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.94(b)

Description: Failure by a licensed irrigator to include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087." on all written contracts and bills to install irrigation systems.

Specifically, during the 10/22/07 record review investigation it was documented that Mr. Gregory Boyd, Landscape Irrigator License Number 14680, Exterior Designs did not have the statement of "Irrigation in Texas is regulated by the Texas Commi

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.95(a)

Description: Failure by a licensed irrigator to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which exceeds the manufacturer's performance limitations for the part, unless the use is necessary to accommodate special site conditions.

Specifically, during a record review initiated on 10/22/07, it was documented that Mr. Gregory Boyd, Landscape Irrigator License Number 14680, Exterior Designs installed an irrigation system at 10522 Felsblock Lane, N

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GREGORY W. BOYD;
RN104946199**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0135-LII-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Gregory W. Boyd ("Mr. Boyd").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Boyd owns and operates a landscape irrigation business located at 6717 Harry Road, San Antonio, Bexar County, Texas (the "Site").
2. Mr. Boyd sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems.
3. During a record review conducted on December 19, 2007, a TCEQ Central Office investigator documented that Mr. Boyd:
 - a. Failed to include the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," on all written contracts and bills to install irrigation systems. Specifically, Mr. Boyd did not include the required statement on the written contract and bills for 10522 Felsbock Lane, New Braunfels, Comal County, Texas; and
 - b. Failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part, unless the use is necessary to accommodate special site

conditions. Specifically, Mr. Boyd installed an irrigation system at 10522 Felsbock Lane, New Braunfels, Comal County, Texas where the system exceeded the manufacturer's performance limitations. The sprays within one inch of the PVC pipe at Stations 1 through 11 sprayed between 22 gallons per minute (gpm) to 36 gpm which exceeded the manufacturer's recommended limit of 17 gpm.

4. Mr. Boyd received notice of the violations on or about December 26, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gregory W. Boyd" (the "EDPRP") in the TCEQ Chief Clerk's office on June 26, 2008.
6. By letter dated June 26, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Boyd with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Boyd received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Boyd received notice of the EDPRP, provided by the Executive Director. Mr. Boyd failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Boyd is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.054 and ch. 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Boyd failed to include the required statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," on all written contracts and bills to install irrigation systems, in violation of 30 TEX. ADMIN. CODE § 344.94(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Boyd failed to design an irrigation system, or portion thereof, so as to require the use of any component part in a way which does not exceed the manufacturer's performance limitations for the part, unless the use is necessary to accommodate special site conditions, in violation of 30 TEX. ADMIN. CODE § 344.95(a).

4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Boyd with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Mr. Boyd failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Boyd and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Boyd for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two-hundred seven dollars (\$207.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Boyd is assessed an administrative penalty in the amount of two-hundred seven dollars (\$207.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Boyd's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Gregory W. Boyd; Docket No. 2008-0138-LII-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Boyd shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Boyd shall ensure that design of all irrigation system designed or installed by Mr. Boyd meets the manufacturer's performance limitations, in accordance with 30 TEX. ADMIN. CODE § 344.62(a)¹.
 - b. Within 10 days after the effective date of this Order, Mr. Boyd shall ensure that the statement "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087," is included on all of Mr. Boyd's written bills and contracts, in accordance with 30 TEX. ADMIN. CODE § 344.71(b)².
 - c. Within 15 days after the effective date of this Order, Mr. Boyd shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are

1 Effective January 1, 2009, 30 TEX. ADMIN. CODE ch. 344 was reorganized, changing 30 TEX. ADMIN. CODE § 344.95(a) to 30 TEX. ADMIN. CODE § 344.62(a).

2 Effective January 1, 2009, 30 TEX. ADMIN. CODE ch. 344 was reorganized, changing 30 TEX. ADMIN. CODE § 344.94(b) to 30 TEX. ADMIN. CODE § 344.71(b).

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Boyd shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Regulatory Compliance Section
Compliance Support Division, MC 178
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Boyd. Mr. Boyd is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Boyd fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Boyd's failure to comply is not a violation of this Order. Mr. Boyd shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Boyd shall notify the Executive Director within seven days after Mr. Boyd becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Boyd shall be made in writing to the Executive Director. Extensions are not effective until Mr. Boyd receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Boyd if the Executive Director determines that Mr. Boyd has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Gregory W. Boyd
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BARHAM A. RICHARD

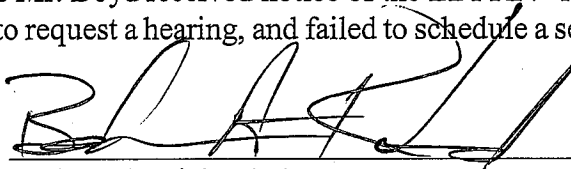
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Gregory W. Boyd" (the "EDPRP") was filed with the Office of the Chief Clerk on June 26, 2008.

The EDPRP was mailed to Mr. Boyd at his last known address on June 26, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Boyd received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

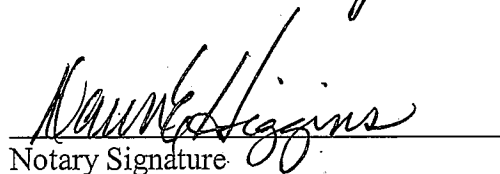
More than 20 days have elapsed since Mr. Boyd received notice of the EDPRP. Mr. Boyd failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."



Barham A. Richard, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 6th day of May, A.D., 2007.


Notary Signature